

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3676 of 1986

Date of decision: 14-7-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAFATLAL PURSHOTTAMDAS PATEL

Versus

STATE OF GUJARAT

Appearance:

MRS DT SHAH for Petitioner

None present for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/07/97

ORAL JUDGEMENT

Heard the learned counsel for the petitioner and perused the special civil application.

Prayer has been made by the petitioner, an employee of the Revenue Department of Government of Gujarat for direction to the respondent to give him promotion on the post of Taluka Development Officer with consequential benefits from the date on which his immediate junior was given promotion. It is not in dispute that in the seniority list which has been published vide order dated 19th March, 1979 the petitioner's name was placed at Serial No.334, whereas S/Shri U. V. Patel and K. K. Patel were placed at serial No.228 and 232 respectively. On the objection raised by the petitioner, ultimately the aforesaid list has been revised vide order dated 24th April, 1986 and the petitioner's name has been brought at serial No.227A, i.e. above U.V. Patel and K.K. Patel. It is also not in dispute that under the order dated 17th January, 1985 the aforesaid two persons have been given promotion to the post of Taluka Development Officer. It is admitted position that those persons also have not passed the departmental examination. In the reply to the special civil application the respondents have admitted that the departmental selection committee which met on 1-9-1984 and 5-12-1984 considered the cases of the employees at serial No.160 to 245, and those who were found suitable were granted temporary promotion, irrespective of fact whether they passed or not the departmental examination. It has further been stated that the petitioner being at serial No.334 his case was not considered by both the departmental selection committees met on dates aforesaid. The respondents also admitted that the position of the petitioner in the seniority list has been changed by bringing him from serial No.334 to serial No.227A. Therefore the petitioner is brought above the aforesaid two persons. But the petitioner's position in the seniority list has been changed after their promotion. The case of the petitioner for promotion was not considered by the Departmental Selection Committee. Consideration was restricted of those Extension Officers who were at serial No.160 to 245 in the seniority list. But after correction of the seniority of the petitioner, it was incumbent upon the respondents to consider the case of the petitioner with reference to the date on which his immediate juniors were promoted. It is not the

case that those persons have been reverted subsequently on the ground that they did not pass the requisite departmental examination. The petitioner deserves the same treatment to be given to him.

2. In the result this special civil application succeeds. It is hereby ordered that the case of the petitioner for promotion to the post of Taluka Development Officer shall be sent for consideration before the Departmental Selection Committee with reference to the date on which his aforesaid juniors were given promotion. In case the petitioner was found suitable for promotion on the post of T.D.O. from the date on which his juniors were given promotion or from any subsequent date, then he shall be entitled for all consequential benefits. The petitioner has retired from service during the pendency of this special civil application, and as such the consequential benefits of pension and other retirement benefits have to be accordingly revised. However, it is made clear that in case on the ground of not passing departmental examination if the aforesaid junior persons have been reverted, then the petitioner also shall be treated similarly. The special civil application stands disposed of in the aforesaid terms. Rule made absolute accordingly. No order as to costs..

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